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AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
DEPUTY

CV 01-1848 #1

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF  
WASHINGTON

ALBERTO S BARRIENTES,

Plaintiff,

v

SALLY NELSON, in her capacity as  
the Mayor of Burien, RON SIMS, in his  
capacity as King County Executive,  
PAUL SCHELL, in his capacity as  
Mayor of the City of Seattle,  
KING COUNTY POLICE, DAVID  
REICHERT, in his official capacity as  
Sheriff, OFFICER G. ALVAREZ,  
KIRK WILLS, J.R.DIXON, JOHN  
PUGH, CHADWELL, and  
ELLENGER, individually and in their  
official capacity,  
SEATTLE POLICE DEPARTMENT,  
WILLIAM DICKENSON, in his  
capacity as Burien City Police Chief.  
Defendants

CO1-18487

COMPLAINT FOR VIOLATION OF  
CIVIL RIGHTS PURSUANT TO 42  
USC 1983

Plaintiff, Alberto S Barrientes, by and through his undersigned attorney, hereby  
alleges as follows

Parties

1. Plaintiff, Alberto S. Barrientes, is and was at all times mentioned herein a resident  
of Burien, King County, Washington

COMPLAINT  
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ORIGINAL

NORTHWEST LAW CENTER, PLLC  
600 First Avenue, Ste 500  
Seattle, WA 98104  
Tel (206) 587-4353

- 2 Defendants are all individuals, public officials or municipalities located or resident  
1 in the State of Washington
- 2 3. Defendant, Sally Nelson, is the mayor and chief executive officer of the City of  
3 Burien. In that capacity, she is responsible for establishing policies and procedures  
4 to enable the Police Department to identify possible acts of misconduct against  
5 citizens, to effectively investigate such acts, to punish and discipline police officers  
6 who have violated the rights of citizens or, in the alternative, to ensure that agencies  
7 or individuals acting on behalf of the City are not systematically violating the rights  
8 of citizens. As related below, the Mayor has failed to establish appropriate policies  
9 pertaining to police misconduct despite the pattern of officer misconduct described  
10 in this Complaint. The Mayor is sued in his official capacity as Mayor of the City  
11 of Burien.
- 12 4 Mayor Paul Schell and the City of Seattle are being sued along with the City of  
13 Burien and King County for the same acts and omissions alleged in Paragraph 3  
14 above.
- 15 5. Defendant David Reichert is the Chief of the King County Police. In that capacity  
16 he is being sued for promulgating policies or failing to institute policies in a manner  
17 manifesting deliberate indifference to misconduct committed by police officers  
18 against Defendant and other citizens. David Reichert and King County, including  
19 Ron Sims in his official capacity, are being sued for acts and omissions that are  
20 identical to those alleged in Paragraph 3 above.
- 21 6 Defendant Officer G Alvarez is being sued personally and in his official capacity  
22 along with Kirk Wills, J R. Dixon, John Pugh, Chadwell, Ellinger and other named  
23 and unnamed officers, all of whom were employed by the King County Police  
24 and/or the Seattle Police Department. Said parties were involved in activities that  
25 show deliberate indifference to Plaintiff's rights under the United States  
26 Constitution.

7 Defendant William Dickinson is the Burien City Police Chief. In that capacity he is  
1 being sued for the acts and omissions alleged in Paragraph 3 above  
2

3  
4 **Jurisdiction & Venue**

5 8. All conduct and transactions alleged herein occurred within the Western District of  
6 Washington. The court has jurisdiction and venue is appropriate pursuant to 28  
7 USC 1331, 131 (a) and the Due Process Clause of Article Fourteen of the United  
8 States Constitution. The Court has jurisdiction over Plaintiff's common law claims,  
9 *infra*, and venue is proper pursuant to 28 USC 1391. The causes of action and  
10 issues before this court pertain to systematic violations of Plaintiff's civil rights,  
11 thus raising federal constitutional questions.

12 **Facts**

13 9. On June 22, 2001, Defendant Officer G. Alvarez of the King County Police  
14 entered the curtilage pertaining to Plaintiff's residence, located at 13055-6<sup>th</sup>  
15 Avenue S. in or near the City of Burien, King County, Washington  
16

17 10. Defendant Officer Alvarez, acting under color of state and/or local law, violated  
18 Plaintiff's constitutionally protected interest under the Fourth and Fourteenth  
19 Amendments by intruding into the property without an arrest warrant or search  
20 warrant; *to wit*, by reaching through a fence into the property and pointing his  
21 service revolver at Plaintiff without lawful authority to do so in order to intimidate  
22 Plaintiff, inflict emotional distress and unlawfully force Plaintiff to come out of the  
23 fenced property by putting Plaintiff in fear of his life

24 11. An unnamed Seattle Police Officer acting in concert with Officer Alvarez further  
25 violated the Fourth Amendment and the Fourteenth Amendments to the U S  
26 Constitution by seizing Plaintiff's personal property without a warrant or any other  
27

good faith exception to the requirement for a search warrant; *to wit*, by snatching the title to Plaintiff's vehicle and other documents out of Plaintiff's hands

12. Said documents were not returned to the Plaintiff, thus violating Plaintiff's constitutionally protected property interest.

13. Defendant, Alvarez, pointed a gun at Plaintiff and unlawfully assaulted him, placing Plaintiff in apprehension that Defendant intended to murder or maim the Plaintiff

14 All of the conduct described above involved agents of Defendant King County Police acting in concert with the Seattle Police Department while in their official capacities under color of law

15. The King County Police were acting as agents for the City of Burien under a contract to provide police services to the community and/or acted on behalf of King County.

16. The above-described conduct constitutes a pattern of ongoing harassment against Plaintiff and was authorized or acquiesced in by the King County Police and other members of the Seattle Police Department such that said conduct constitutes a custom or policy engaged in by King County, the City of Burien and the Seattle Police Department

17 In the alternative, King County Police, the City of Burien and the Seattle Police Department knew or should have known that such a pattern of harassment existed and failed to prevent said unlawful conduct by its officers, thus manifesting deliberate indifference to Plaintiff's federal and state constitutional rights

18 Defendants subjected Plaintiff to a warrant less arrest and seizure of his property, false arrest and imprisonment and used unreasonable and excessive force in order

to further a program of vigilantism that is unrelated to the commission of any offense by Plaintiff under the Crimes Code of Washington.

19. All the conduct described above involved state action and occurred under color of state or local law.

20 Plaintiff has suffered emotional distress, humiliation, outrage, anxiety and fear for his personal safety in his own home, all of which were proximately caused by the unconstitutional torts described above.

21. Defendant Officer G. Alvarez intended to inflict emotional distress upon the Plaintiff resulting in actual medical costs to Plaintiff, in addition to pain and suffering

22. Plaintiff has no plain, speedy, and adequate legal remedy under the laws of the State of Washington in that the constitutionally protected interests violated by the Defendants' misconduct occurred under color of state or local laws

23 A *de facto* policy existed within the municipal and county defendant police departments to inflict emotional distress and force Plaintiff and his family to stop living in the neighborhood because Plaintiff is Hispanic and some of the Defendant Officers may have believed that Plaintiff was affiliated with a gang.

### COMMON LAW CAUSES OF ACTION

*Plaintiff realleges all of the paragraphs above and as further causes of action alleges*

24. Defendant/Officer assaulted Plaintiff by pointing a gun at him and creating a reasonable apprehension of imminent death or grievous bodily harm and by grabbing documents from Plaintiff's hand without consent;

- 1 Defendant/Officer committed the torts of false imprisonment and false arrest upon  
2 Plaintiff by pointing a gun at Defendant without legal justification and by indicating  
3 that Plaintiff was not free to leave,  
4  
5 Defendant/Officers and the King County Police failed to return Plaintiff's seized  
6 property, thus converting Plaintiff's property,  
7  
8 Defendant Officer committed the tort of trespass by reaching into the Plaintiff's  
9 premises without permission;  
10  
11 All of the common law torts mentioned above were committed for the purpose of  
12 inflicting emotional distress and constitute the torts of outrage and/or intentional  
13 infliction of emotional distress;  
14  
15 The municipalities and governmental units named in this action are liable for the  
16 actions of their employees on the basis of common law employer liability, in  
17 addition to liability for unconstitutional and unlawful *de facto* policies promulgated  
18 or condoned by the counties and cities named herein.

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**CAUSE OF ACTION FOR CONSPIRACY TO DEPRIVE PLAINTIFF OF  
CIVIL RIGHTS**

28. The Defendant Police Agencies, in their official and/or individual capacities, were  
involved in joint actions and agreed to make concerted efforts to violate  
Plaintiff's Constitutional rights or entered into a conspiracy by the agreement  
between participating officers to condone such actions and to conceal such  
actions by not reporting police misconduct and by maintaining silence as to  
official misconduct

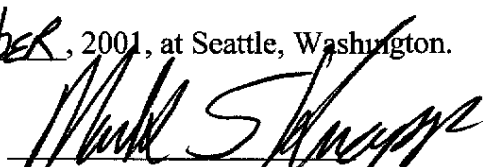
**Wherefore, Plaintiff requests**

- 1 Defendants be enjoined from further harassment against Plaintiff and his family,
- 2 Medical damages in an amount to be determined at trial sustained by Plaintiff by

reason of Defendants' misconduct to be awarded jointly and severally against the parties;

3. Compensatory damages in the amount of \$ 500,000 for Plaintiff's emotional distress to be awarded against all the parties as joint and several liability,
- 4 Punitive and other damages in an amount to be determined by the court
5. Costs of suit; and such other and further relief as the court deems just and proper.

Dated this 15<sup>th</sup> day of November, 2001, at Seattle, Washington.

  
Mark S. Knapp  
WSBA #19228

*I, ALBERTO BARRIENTES, HEREBY DECLARE UNDER THE PENALTY AND PERJURY OF LAWS OF THE STATE OF WASHINGTON THAT THE FOREGON STATEMENT IN TRUE AND CORRECT*

Dated this 15 day of Nov., 2001, at Seattle, Washington.

  
Alberto Barrientes